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FISCAL IMPACT STATEMENT

LS 7539

BILL NUMBER: HB 1695

NOTE PREPARED: Mar 1, 2005

BILL AMENDED: Feb 28, 2005

SUBJECT: Retail Development.

FIRST AUTHOR: Rep. Behning

FIRST SPONSOR:

BILL STATUS: 2nd Reading - 1st House

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) *Special Retail District:* This bill allows the Marion County City-County Council to designate a Special Retail District if the district:

- (1) does not exceed 400 acres;
- (2) is established for the purpose of undertaking a project that involves a total capital commitment in excess of \$125,000,000;
- (3) the total capital investment for the project will be in excess of \$500,000,000; and
- (4) the project would not otherwise be accomplished through the ordinary operations of private investment.

The bill provides that if a district is designated, an additional 1% Sales Tax applies to retail transactions within the district. It also specifies that this additional 1% Sales Tax is imposed, paid, and collected in the same manner as the State Sales Tax. The bill requires the amounts received from the additional 1% Sales Tax to be paid monthly by the Treasurer of the state to the county fiscal officer and deposited into a special fund. It allows money in the special fund to be used by the Metropolitan Development Commission for any purpose that property tax increment could be used.

Community Revitalization Enhancement District: The bill enlarges the class of political subdivisions in which a Community Revitalization Enhancement District may be established to include all cities and towns.

Effective Date: July 1, 2005.

Explanation of State Expenditures: (Revised) *Special Retail District:* This bill authorizes the Marion County

City-County Council to establish a Special Retail District (District) and impose an incremental Sales Tax of 1% to carry out economic development projects involving capital commitments in excess of \$125 M and total capital investment at completion in excess of \$500 M. The bill provides that the 1% Sales Tax may only be imposed on retail transaction within the District.

The bill provides that the Department of State Revenue (DOR) is required to collect the tax. The resulting administrative cost impact to DOR could presumably be covered through the use of existing staff and resources.

Community Revitalization Enhancement District: The changes made by the bill could potentially lead to a significant increase in administrative demands for the Department of State Revenue (DOR), the State Budget Agency (SBA), and the state Budget Committee resulting from the Community Revitalization Enhancement District (CRED) Program. Under current law, the state Budget Committee must review and make a recommendation to the SBA after they are notified of the local resolution designating a CRED. The SBA must approve the resolution designating the district. However, if the SBA fails to take action within 120 days of the date the resolution is submitted to the Budget Committee, the resolution is considered approved. The DOR must calculate the base income tax amount and the base gross retail amount for the district. The DOR and the SBA must annually estimate and certify the amount of income tax and sales tax which will be collected from the district.

Current statute limits CREDs to Indianapolis and roughly 21 second class cities. It also has specific provisions authorizing CREDs in the City of Marion and municipalities in Allen, Delaware, Monroe, and St. Joseph Counties. Currently, there are CREDs operating in Bloomington, Marion, and South Bend, and recently designated in Anderson and Muncie. The bill authorizes the designation of CREDs in all cities and towns. This would add roughly 90 to 95 cities and 460 towns to the existing group of about 20 to 30 cities that could seek approval to establish a CRED. The number of newly authorized cities and towns seeking approval and of new CREDs that could potentially be established under the bill is indeterminable and contingent on response by the newly authorized cities and towns.

Explanation of State Revenues: (Revised) *Special Retail District:* The overall impact on state revenues is indeterminable. The revenue from the additional 1% Sales Tax would be distributed to the Marion County Fiscal Officer. The impact on state Sales Tax revenues will ultimately depend upon the level of new development in the district and the extent to which it generates new economic activity in the state. New development will increase the base of Sales Tax collections. There could also be a positive impact on the state's revenues from the Individual and Corporate Adjusted Gross Income Taxes and the Property Tax.

Community Revitalization Tax Credit: Taxpayers in CREDs established as a result of this bill would be entitled to the nonrefundable Community Revitalization Tax Credit. Under current statute, a taxpayer who makes a qualified investment for the redevelopment or rehabilitation of property located within a CRED is entitled to this credit. The credit is based on 25% of the qualified investment. The expenditures must be made under a plan adopted by an advisory commission on industrial development and approved by the Department of Commerce. The credit may be used to reduce the taxpayer's tax liability against the Adjusted Gross Income Tax, CAGIT, COIT, CEDIT, the Insurance Premiums Tax, and the Financial Institutions Tax. The taxpayer may carry any excess credit over to the immediately following years, but is not entitled to a carryback or refund of any unused credit. A taxpayer is not entitled to a credit if they substantially reduce or cease to operate in another area of the state in order to relocate within the district. As tax return data relating to this tax credit are unavailable and the potential number of new CREDs is indeterminable, the revenue loss from potential

additional credits is indeterminable.

This tax credit is similar to the Industrial Recovery Site/Dinosaur Credit (IRTC) that has been in effect since 1987 under P.L. 379-1987(ss). Through the end of 2003, 29 tax credits have been awarded with a maximum value of about \$23.0 M. This is an average of about \$800,000 per credit awarded. The total investment in these projects equaled about \$104.9 M. Since 2000, only 3 tax credits have been awarded with a maximum value of about \$1.9 M and project investment totaling about \$10.1 M.

CRED Income and Sales Tax Increment Allocations: This bill will allow the additional cities and towns that designate a CRED to capture, under current statute, up to \$750,000 of the incremental income and sales taxes annually generated in the CRED. Current statute limits the increment that may be captured by these new CREDs to 75% of the incremental income and sales taxes. Current statute also provides that a CRED must terminate not later than 15 years after incremental income or sales taxes are first allocated to the CRED. The State Budget Agency must approve the resolution designating a CRED before incremental income and sales taxes may be allocated to a city or town designating a CRED. If the approval is obtained for any of the new CREDs, the state would forgo 75% of any new income or sales tax revenue up to \$750,000 per year that is generated by the development in these new CREDs.

Captured incremental income and sales taxes transferred to existing CREDs totaled \$492,005 for Bloomington and \$24,241 for Marion in FY 2004; with no transfers made to South Bend. For FY 2005 through December 29, 2004, transfers of captured incremental income and sales taxes total \$68,195 for Bloomington and \$655,269 for South Bend; with no transfers yet to Marion. Bloomington, Marion, and South Bend CREDs are under current statute able to capture up to \$1.0 M per year generated by CRED development. The incremental income and sales tax revenue will be transferred to the Industrial Development Fund of the city establishing the CRED. The covered taxes which will be included are Sales Tax, Adjusted Gross Income Tax, County Adjusted Gross Income Tax, County Option Income Tax, and County Economic Development Income Tax.

Revenue from the corporate AGI tax, the Insurance Premiums Tax, and the Financial Institutions Tax is deposited in the state General Fund. The revenue from the individual AGI Tax is deposited in the state General Fund (86%) and the Property Tax Replacement Fund (14%). Sales Tax revenue is deposited in the Property Tax Replacement Fund (50%), the state General Fund (49.192%), the Public Mass Transportation Fund (0.635%), the Commuter Rail Service Fund (0.14%), and the Industrial Rail Service Fund (0.033%)

Explanation of Local Expenditures: (Revised) *Special Retail District:* This bill would have a slight administrative impact on the Marion City-County Council, the Metropolitan Development Commission, and the County Fiscal Officer. It is estimated that the increase could be covered through the use of existing staff and resources.

Explanation of Local Revenues: (Revised) *Special Retail District:* The impact on local revenues is indeterminable. The bill requires the amounts received from the additional 1% Sales Tax to be paid monthly by the Treasurer of the state to the County Fiscal Officer and deposited into a special fund. It allows money in the special fund to be used by the Metropolitan Development Commission for any purpose that property tax increment could be used under IC 36-7-15.1-26, including the payment of debt service or lease rentals and the establishment and maintenance of a debt service reserve.

IC 36-7-15.1-26 says that the property tax increment (and therefore the Sales Tax increment under this bill) may be used only to do one (1) or more of the following:

- (A) Pay the principal of and interest on any obligations payable solely from allocated tax proceeds that are incurred by the redevelopment district for the purpose of financing or refinancing the redevelopment of that allocation area.
- (B) Establish, augment, or restore the debt service reserve for bonds payable solely or in part from allocated tax proceeds in that allocation area.
- (C) Pay the principal of and interest on bonds payable from allocated tax proceeds in that allocation area and from the special tax levied under section 19 of this chapter.
- (D) Pay the principal of and interest on bonds issued by the consolidated city to pay for local public improvements in that allocation area.
- (E) Pay premiums on the redemption before maturity of bonds payable solely or in part from allocated tax proceeds in that allocation area.
- (F) Make payments on leases payable from allocated tax proceeds in that allocation area under section 17.1 of this chapter.
- (G) Reimburse the consolidated city for expenditures for local public improvements (which include buildings, parking facilities, and other items set forth in section 17 of this chapter) in that allocation area.
- (H) Reimburse the unit for rentals paid by it for a building or parking facility in that allocation area under any lease entered into under IC 36-1-10.
- (I) Reimburse public and private entities for expenses incurred in training employees of industrial facilities that are located:
 - (i) in the allocation area; and
 - (ii) on a parcel of real property that has been classified as industrial property under the rules of the department of local government finance.

Community Revitalization Enhancement District: This bill allows all cities and towns to designate one CRED. Current statute limits CREDs to Indianapolis and roughly 21 second class cities. It also has specific provisions authorizing CREDs in the City of Marion and municipalities in Allen, Delaware, Monroe, and St. Joseph Counties. Currently, there are CREDs operating in Bloomington, Marion, and South Bend, and recently established in Anderson and Muncie. The bill would add roughly 90 to 95 cities and 460 towns to the existing group of about 20 to 30 cities that could seek approval to designate a CRED. As under current law, the bill allows a CRED to be designated in any city or town by an advisory commission on industrial development. The commission resolution designating the CRED must be submitted to the Budget Committee for review and recommendation to the State Budget Agency. The SBA must approve the resolution before incremental income and sales taxes may be allocated to the CRED. However, if the SBA fails to take action within 120 days of the date the resolution is submitted to the Budget Committee, the resolution is considered approved. The district is limited to 15 years.

This bill will allow the additional cities and towns that designate a CRED to capture, under current statute, up to 75% of the incremental income taxes generated from new development in the CRED. This revenue is to be deposited in the Industrial Development Fund of the city designating the CRED. The covered taxes which will be included are CAGIT, COIT, and CEDIT. The local taxing units which would normally receive a share of the total local option income taxes generated in the CRED under current statute will not receive 75% of the incremental revenue generated. Current law also allows all taxing units, except townships, to impose a levy for the Industrial Development Fund at a rate of up to \$0.0167 per \$100 of assessed valuation. The proceeds from the tax levy may be pledged for the payment of bonds and obligations issued in a CRED.

State Agencies Affected: Department of State Revenue, State Budget Agency, Budget Committee, State

Treasurer.

Local Agencies Affected: Marion City-County Council; Metropolitan Development Commission; County Fiscal Officer; Cities and Towns.

Information Sources: Deanna J. Oware, Indiana Department of Commerce, Community Development Division, (317) 232-8917; Auditor's Revenue Trial Balance as of June 30, 2004, and December 29, 2004; Auditor's Trial Balance database.

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